

NOTICE TO EMPLOYERS

Important Changes for 2011 State Withholding for Nebraska January 1, 2011

New due date for state copies of federal wage and tax statements:

All employers or payers (employers) must file 2010 Forms W-2, W-2G, 1099-R, and 1099-MISC by February 1, 2011. Employers filing more than 50 forms must e-file these forms. (See [LB 879](#) – Operative date: January 1, 2011)

New due date for Nebraska Reconciliation of Income Tax Withheld, Form W-3N:

All employers must also file Form W-3N with the Nebraska Department of Revenue (Department) by February 1, 2011. (See [LB 879](#) – Operative date: January 1, 2011)

Electronic Fund Transfer (EFT) Threshold for Withholding Payments. Payments made using the Department's FREE e-pay program, ACH Credit, or by credit card, are considered EFT payments. EFT payments for withholding are required if the employer has made total payments exceeding certain amounts in a prior year. The Department is phasing in this requirement.

- Beginning January 1, 2011, all employers making withholding tax payments of more than \$20,000 each year will be required to e-pay.
- Mandated EFT thresholds will be lowered each January and July until the \$5,000 threshold authorized by law is reached.
- By 2015, all employers making tax payments of more than \$5,000 each year will be required to e-pay.

Example. An employer makes withholding payments of \$22,000 in 2010. Beginning in 2011, the employer must make all withholding tax payments by EFT. Employers not **required** to use EFT to make their withholding tax payments, are still strongly encouraged to do so. (See [LB 879](#) – Operative date: January 1, 2011)

Withholding for Certain Construction Contractors. Five percent income tax withholding is required on payments made by contractors to other construction contractors or subcontractors not registered on the [Nebraska Contractor Database](#). Effective January 1, 2010, the Department of Labor and the Department of Revenue combined their databases for construction contractors.

Special Withholding Procedures. An employee's state income tax withholding is calculated by either the percentage method table or the tax bracket tables.

- If the calculated result is not at least 1.5% of the employee's taxable wage; then
- The special withholding procedures must be followed.

The [tax bracket tables](#) in this Circular EN (beginning on [page 13](#)) show withholding amounts that meet the special withholding requirements.

- The non-shaded area shows withholding of at least 50% or more of the withholding for a single employee with one withholding allowance or for a married employee with two allowances. These amounts meet the minimum withholding requirement and may be used by the employer to determine an employee's state withholding.
- The shaded area indicates withholding amounts that do not meet the minimum requirement. These amounts should not be used unless the employer receives documentation from the employee substantiating the lower withholding.
- Employers using the withholding tax rate schedules must also implement special withholding procedures if the calculated withholding is not at least 1.5% of taxable wages.

Documentation may include:

- Verification of number of children/dependents;
- Marital status; and/or
- The amount of itemized deductions.

Without documentation, the employee's withholding must be set at 1.5% or at another level within the non-shaded area of the withholding tables.

The employer may be subject to a penalty of up to \$1,000 for each employee under-withheld if the employee's low withholding is not substantiated.

An employee that intentionally evades the Nebraska income tax by claiming an excessive number of allowances, or in any other manner overstating the amount of withholding, can be found guilty of a Class II misdemeanor.